

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
)	
Effects of Communications Towers on)	WT Docket No. 03-187
Migratory Birds)	
)	
)	
)	
)	

**COMMENTS OF THE ASSOCIATION OF PUBLIC
TELEVISION STATIONS**

The Association of Public Television Stations (“APTS”)¹ hereby submits
Comments in the above captioned proceeding.

The Notice of Proposed Rulemaking in the above-captioned proceeding seeks
comment on whether the Commission should take measures to reduce the number of
instances in which migratory birds collide with communications towers. The
Commission tentatively concludes that, for any “newly constructed or modified
communications towers that must meet lighting specifications under Part 17 of the
Commission’s rules, medium intensity white strobe lights for nighttime conspicuity is to
be considered the preferred system over red obstruction lighting systems to the maximum

¹ APTS is a nonprofit organization whose membership comprises the licensees of nearly all of the nation’s 361 CPB-qualified noncommercial educational television stations. APTS represents public television stations in legislative and policy matters before the Commission, Congress, and the Executive Branch and engages in planning and research activities on behalf of its members.

extent possible without compromising aircraft navigation safety.”² In this regard, the Commission, further, has sought comment on the economic costs of this tentative proposal on licensees.³ It has also sought comment on whether and how it should apply any new lighting standard to *existing* communications towers. For instance, the Commission has asked whether, if it applies its new standard to existing towers, it should:

- Require the replacement of red obstruction lights with medium intensity white strobe lights when the former burn out and need to be replaced; or
- Mandate a transition of all existing towers to medium intensity white strobe lights within a specific time frame (e.g. five years).⁴

The Commission also seeks comments on the possible adoption of various other measures that might serve to mitigate the impact of communications towers on migratory birds. These include additional requirements concerning guy wires (e.g., marking the wires),⁵ tower height (e.g., mandating towers shorter than 200 feet),⁶ tower location (e.g., proximity to wetlands, major bird corridors or coastlines and location on mountains)⁷ and policies to promote collocation of multiple service on fewer towers.⁸

APTS files these comments to express its members’ concern that any new tower lighting or similar requirements be crafted in a way that is sensitive to the economic

² Notice of Proposed Rulemaking, WT Docket 03-187, (Nov. 7, 2006) (NPRM), ¶ 38.

³ NPRM, ¶ 45.

⁴ NPRM, ¶ 47.

⁵ NPRM, ¶¶ 48-55.

⁶ NPRM, ¶¶ 56-58.

⁷ NPRM, ¶ 59.

⁸ NPRM, ¶ 60.

realities of existing licensees like public television stations. In this regard, the Government Accountability Office has recently issued a report on public television licensees in which it highlighted the difficult and sometimes precarious financial position these licensees hold.⁹

Clearly, depending on the configuration of the tower and its location, the cost to comply with the Commission's proposed tower lighting regulations would vary. However, numerous member stations have expressed their concerns to APTS. One estimate provided to APTS from a representative member station states that it would cost \$130,000 simply to replace four levels of side markers and a top light. If the conduit to the lights would need to be replaced, this would add approximately \$18,000 for 900 feet. Without a doubt, the costs to comply would be substantial and difficult for public television stations to sustain.

Accordingly, APTS suggests that to reduce the economic impact of any proposed tower regulations, the Commission should consider any or all of the following mitigating possibilities:

- Limit the requirement to towers located in proximity to wetlands, major bird corridors or coastlines where there are large migratory bird populations. In this regard, many public television station managers report no problems with avian mortality near towers in locations where there are few migratory birds.

⁹ Government Accountability Office, "Issues Related to the Structure and Funding of Public Television," GAO-07-150 (January, 2007).

- Consistent with the above, limit the requirement to new tower construction or significant modifications to existing towers.¹⁰
- Promulgate no further regulations concerning guy wires, tower height, tower location, or collocation until further study of the effectiveness of lighting changes has been concluded.

At the present time, public television stations and their commercial brethren are engaged in a nation-wide transition to digital infrastructure and distribution. Throughout this transition, public television stations have found it difficult to raise the money to comply with this national mandate. In many instances, public television stations have relied significantly on federal and state support to build new master control facilities, transmission systems and distribution infrastructure. It is a particularly difficult time for these stations financially, as they must also sustain operations for both their analog and digital broadcast systems until February of 2009 or possibly even later. Just the cost of electricity to operate both analog and digital channels is significant enough to make budgets difficult and margins slim. The Commission should very carefully weigh the economic impact of any new regulations it may impose at this time on public television stations and the services they provide to their communities.

¹⁰ However, if the Commission requires replacement of lights on existing towers, APTS urges the Commission not to mandate a transition period for all towers but only require replacement of burned-out lights with new lights.

/s/ Lonna M. Thompson

Lonna M. Thompson
Vice President & General Counsel
Malena F. Barzilai
Senior Counsel
Association of Public Television Stations
666 Eleventh Street, NW, Suite 1100
Washington, D.C. 20001
www.pts.org
Telephone: 202-654-4200
Fax: 202-654-4236

April 20, 2007

Of Counsel:
Andrew D. Cotlar, Esq.
23 West Court Street
Doylestown, PA 18901
Tel: 215-345-7310
acotlar@hotmail.com